

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

RODNEY CLARK, *et al.*

Plaintiffs,

v.

SANDRA CARTER, *et al.*,

Defendants.

Case No. C05-5613 FDB

ORDER ADOPTING REPORT AND
RECOMMENDATION DENYING
PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT AND
GRANTING DEFENDANT'S
MOTION FOR SUMMARY
JUDGMENT

This matter comes before the Court on the Report and Recommendation of the Magistrate Judge that Plaintiffs' motion for summary judgment be denied and Defendant's motion for summary judgment on the merits be granted.

Plaintiffs filed this pro se civil rights action pursuant to 42 U.S.C. § 1983 alleging that their First, Fourth and Fourteenth Amendment Rights were violated when Mr. Clark's sexually explicit outgoing mail to his wife was rejected by prison officials. As detailed by the Magistrate Judge, Plaintiff's Fourth Amendment claim is without merit as an inmates right to privacy does not prevent opening and reading inmate mail. The Plaintiffs were not denied due process under the Fourteenth Amendment as Plaintiff was provided notice and an opportunity to be heard. Finally, the Defendants

1 have shown that the letter was obscene speech and not subject to First Amendment protections.
2 Alternatively, the mail is subject to censorship due to penalogical interest in furthering prison safety
3 and security.


4 Plaintiff's Objections to the Report and Recommendation does not convince this Court
5 otherwise. The Court, having reviewed the Report and Recommendation of magistrate Judge J.
6 Kelly Arnold, the Objections filed by Plaintiffs, and the remaining record, does hereby find and
7 ORDER:

8 (1) The Court adopts the Report and Recommendation

9 (2) The action is DISMISSED WITH PREJUDICE for the reasons outlined in the Report
10 and Recommendation.

11 (3) The Clerk is directed to send copies of this Order to Plaintiffs, counsel for Defendants
12 and to the Honorable J. Kelly Arnold.

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14 DATED this 27th day of November, 2006.

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19 FRANKLIN D. BURGESS
20 UNITED STATES DISTRICT JUDGE
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